

DEPARTMENT OF FISH AND GAME

REGION 2

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RANCHO CORDOVA, CA 95670

(916) 358-2988

September 8, 1995

Mr. Dennis M. Diemer
Interim General Manager
East Bay Municipal Utility District
375 Eleventh Street
Oakland, California 94607-4240

Dear Mr. Diemer:

The Department of Fish and Game would like to provide the East Bay Municipal Utility District (EBMUD) with the following comments on the staff report on the Water Supply Management Program (WSMP) Action Plan to be presented to the Board of Directors on September 12.

As we understand the current situation, the board is concerned about the lack of progress on the WSMP Action Plan adopted on January 24, 1995 based on the WSMP Final Environmental Impact Report which was a programmatic California Environmental Quality Act (CEQA) document. Several options will be presented to the board and the board could elect to pursue new directions for the water supply planning process. Some of the options include projects which were not adequately analyzed in the WSMP FEIR. The Department recommends that EBMUD undertake additional programmatic CEQA analysis if the Board decides to pursue projects such as Folsom South Canal which were not originally selected based on the WSMP FEIR.

One option the board will be considering would be diversion of water at Freeport on the Sacramento River. This diversion would likely be in conjunction with the American River Water Forums participants. While this option would have environmental impacts that would need to be evaluated and mitigated, from a fisheries standpoint, it would likely be an environmentally superior alternative over other alternatives especially a Folsom South Canal point of diversion.

Other options include diversion from Folsom South Canal either as part of a conjunctive use process with San Joaquin County participants or as an EBMUD only project with some development of terminal storage options. The Department, as a party to the Environmental Defense Fund v. EBMUD litigation, would object to any use of Folsom South Canal that was inconsistent with the Physical Solution issued in that case in 1990. In our view, diversion of water from Folsom South Canal

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for use by San Joaquin County would be inconsistent with that decision because the court balanced the need for protection for instream uses against the needs for water supply for municipal, not agricultural, uses. The staff report recognized this area of controversy in the flow diagram labeled Recommended WSMP Action Plan Sequence by including a decision point under the Joint Conjunctive Use Project which looks at the need for agreements, permits and determination on this issue.

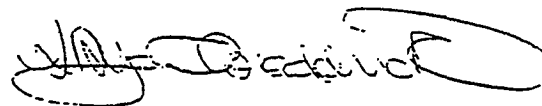
The Physical Solution also recognized the need to further evaluate the effects of diversion on carry over storage in Folsom Reservoir. To date, this question has not been resolved and so any analysis showing water available at Folsom South Canal during years when flood control releases are not being made should be carefully examined. We believe that diversions in those dry years would be inconsistent with the Physical Solution if they adversely affected carryover storage.

We recommend that a decision point be added to the recommended WSMP Action Plan Sequence for the Folsom South Connection alternative that asks the same questions as are found in the Joint Conjunctive Use Project. (i.e., permitting obstacles overcome? Consistency with Physical Solution?). The Department also recommends that the decision points for all three alternatives be moved forward so they occur before the major commitment of resources to land acquisition or final design.

As EBMUD moves forward with the WSMP, the Department will continue to work with your staff to identify issues and suggest potential resolution of conflicts.

If you have any questions, please contact Mr. Nick Villa, Fisheries Management Supervisor, at (916) 358-2943, or Ms. Cindy Chadwick, Environmental Services Supervisor, at 916-358-2921.

Sincerely,



L. Ryan Broddrick
Regional Manager

cc: See attached page

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cc: Mr. Nick Villa
Ms. Cindy Chadwick
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